

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-219619

FILE:

DATE: September 5, 1985

OTKM Construction Incorporated

MATTER OF:

DIGEST:

1. Discrepancy in bid between stated total of lump sum and extended price items and the correct mathematical total of such items may be corrected so as to displace another, otherwise low offer where both the intended bid price and the nature of the mistake are apparent on the face of the bid.
2. Where the bidder, by entering a bid price for every item, offered to perform as required under the solicitation and at a price apparent on the face of the bid, the failure to enter a total price did not render the bid nonresponsive and, instead, may be considered an informality and waived.

OTKM Construction Incorporated (OTKM) protests the determination by the Forest Service, Department of Agriculture, to permit correction of the bid submitted by Marvin L. Cole General Contractor, Inc. (Cole), in response to invitation for bids No. R6-85-27C. OTKM alleges that there is insufficient evidence of the intended bid price to permit correction and argues that, in any case, Cole's bid is nonresponsive. We deny the protest.

The solicitation was for the construction of the Mount St. Helens Visitor Center in the Gifford Pinchot National Forest, Washington. The solicitation schedule included 33 items divided among five groups: (1) building and site; (2) sewerage; (3) segment I of road A; (4) segment II of road A; and (5) road B. For some items, such as excavation, bidders were to enter unit and extended prices based upon the estimated quantity involved; other items were bid on a "lump sum" or on an "each" basis. At the foot of each of the five groups of items a blank was provided for the entry of a subtotal. These blanks were in the same column as the prices bid for each item. At the bottom of the last page of

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the four-page Schedule was another blank for "TOTAL ALL ITEMS--BUILDING, SITE, SEWERAGE AND ROAD." This blank was followed by a notice cautioning all bidders to "[b]e sure to enter TOTAL BID PRICE IN ITEM (Block) 17 on back of Standard Form 1442," the standard form for the solicitation, offer and award of construction, alteration or repair contracts.

Of the six bids received, OTKM submitted the apparent low bid of \$2,924,409.90, while Cole submitted the apparent second low bid of \$2,953,350.

Upon examining Cole's bid, the Forest Service noted that the unit prices were properly extended, except for the rounding off of some item prices and a \$1 error in one extension. The subtotals of all five groups also were the correct mathematical totals of the item prices. The only discrepancy was between the amount Cole entered for "TOTAL ALL ITEMS"--\$2,953,350--and the correct mathematical total of the subtotals for the five groups--\$2,890,987--a difference of \$62,363. In view of the consistency of the rest of the bid, contracting officials determined that Cole had made an apparent clerical error in calculating the stated total bid price for all items. Accordingly, they determined that Cole's bid was subject to correction to reflect an intended bid price of \$2,890,985.16, which is the correct mathematical total of all the items when the extended prices are not rounded off. When contacted to verify its bid price, Cole confirmed that the mistake occurred in adding the item prices rather than in calculating the item prices themselves.

OTKM, however, then protested to the Forest Service against permitting correction of Cole's bid and making award to Cole. When that protest was denied, OTKM filed this protest with our Office.

OTKM alleges that although it is apparent that there is a mistake in Cole's bid, the bid may not be corrected because the intended bid price is not apparent on the face of the bid. Moreover, OTKM points out that Cole failed to enter a total bid price in block 17 of Standard Form 1442, as instructed, and argues that this rendered Cole's bid nonresponsive.

The Forest Service and Cole, on the other hand, maintain that the consistency of the item prices and of the subtotals indicates that the item prices--the individual pay items--were the prices intended, not the stated total price. Cole, moreover, also contends that it is apparent from the bid how the \$62,363 discrepancy occurred.

Pages 1 through 3 of the IFB Schedule were arranged as follows:

Page 1--unit prices and subtotal, building and site

Page 2--headed "Sewerage and Road," subheaded "Sewerage," unit prices and subtotal for sewerage

Page 3--headed "Road," unit prices and subtotal for road A, segment I.

Page 4, as bid by Cole, appears as follows:

SCHEDULE OF ITEMS
Page 4 of 4

ROAD A SEGMENT II

Construction Staking	<u>\$ 1,452</u>
Clearing and Grubbing,	
Slash Treatment	<u>10,973</u>
Excavation	<u>5,880</u>
Screened Aggregate,	
Grading, Compaction	<u>30,147</u>
 SUBTOTAL ROAD A SEGMENT II	 <u>\$48,452</u>

ROAD B

Construction Staking	<u>\$ 968</u>
Clearing and Grubbing,	
Slash Treatment	<u>4,268</u>
Excavation	<u>1,177</u>
Screened Aggregate,	
Grading, Compaction	<u>8,098</u>

SUBTOTAL SEWERAGE AND ROAD	<u>\$14,511</u> <u>1/</u>
TOTAL ALL ITEMS	\$2,953,350
BUILDING, SITE, SEWERAGE AND ROAD	

Cole explains that as a result of the fact that two groups appeared on page 4 of the Schedule, and that the blanks for the subtotals were placed in the same column as the item prices, it inadvertently added the item prices and the two subtotals on page 4 in arriving at its total price--thus overstating that price by \$62,963.

Cole further explains that in adding the item prices under road B it inadvertently included a price of \$363 for construction staking instead of the intended price of \$968. This had the effect of understating its intended total bid price by \$605. The figure \$363 does appear on Cole's bid for this item, but it is lined through, the alteration is initialed and the figure \$968 is written above it. Likewise, the correct mathematical total for the group if \$363 was the intended price for construction staking appears on Cole's bid, but it is lined through, the alteration is initialed and the correct mathematical total for the group if \$968 was the intended bid price for construction staking is written above it.

Finally, Cole states that the total it thus mistakenly calculated--\$2,953,345--was rounded up by \$5 to arrive at the total of \$2,953,350 stated in its bid.

As a general rule, where, as here, a bid contains a price discrepancy and the bid would be low on the basis of one price but not the other, then correction is not allowed

1/ Unlike the other four groups, no blank was provided for the subtotal for road B only, an apparent oversight. The abstract of bids, however, shows that consistent with the structure of the rest of the Schedule, all bidders other than OTKM interpreted this blank as the subtotal for Road B only rather than what it literally was--the subtotal for all sewerage work plus all road work.

unless the asserted correct bid is the only reasonable interpretation ascertainable from the bid itself or on the basis of logic and experience. The bid cannot be corrected if the discrepancy cannot be resolved without resort to evidence that is extraneous to the bid and has been under the control of the bidder, see Frontier Contracting Co., Inc., B-214260.2, July 11, 1984, 84-2 C.P.D. ¶ 40; Harvey A. Nichols Co., B-214449, June 5, 1984, 84-1 C.P.D. ¶ 597, such as worksheets and sworn statements. See SCA Services of Georgia, Inc., B-209151, Mar. 1, 1983, 83-1 C.P.D. ¶ 209.

We have previously considered whether a bid may be corrected so as to displace an otherwise low bidder where there is a discrepancy between the correct mathematical total of lump sum and extended price items and the stated total of such items. In DeRalco, Inc., B-205120, May 6, 1982, 82-1 C.P.D. ¶ 430, we sustained a protest against the agency's determination to correct such a discrepancy as an apparent clerical error where neither the nature of the alleged mistake nor the bid actually intended could be determined without benefit of advice from the bidder. We noted that there was no one obvious or apparent explanation for the discrepancy. The difference did not suggest where the mistake might have been made and the stated total was not so grossly out of line with the other bid or with the government's estimate as to be patently erroneous. We found that the discrepancy could reasonably be attributed either to a mistake in totaling the items or to an incorrectly stated item.

By contrast, in Patterson Pump Co.; Allis-Chalmers Corp., B-200165, B-200165.2, Dec. 31, 1980, 80-2 C.P.D. ¶ 453, we denied a protest against the agency's determination to permit correction of such a discrepancy as an apparent clerical error. As we stated in DeRalco, Inc., B-205120, supra, 82-1 C.P.D. ¶ 430 at 5, we permitted correction because:

"the only reasonable interpretation of the discrepancy was that the bidder had added one of the items as though it were \$315,000 instead of the \$31,500 stated. This interpretation was based on three factors: (1) the stated figure of \$31,500 was misaligned, (2) the difference between the stated total and the true total was exactly

equal to the difference between \$315,000 and \$31,500, and (3) the stated extended price of \$31,500 was consistent with the range of extended prices of the nine other bids received. In light of these three factors, it was apparent . . . not only that a mistake had been made, but also what the nature of that mistake had been. It was therefore possible for the contracting officer to ascertain the intended bid without benefit of advice from the bidder."

We conclude that the circumstances here are more analogous to those in Patterson Pump than to those in DeRalco. Not only are the unit prices generally properly extended here, but, most significantly, the subtotal for each group is also the correct mathematical total of the item prices in that group. Given this internal consistency in Cole's bid, we are unwilling to question the Forest Service's determination that the only reasonable interpretation of the discrepancy is that Cole intended its bid price to be the correct, mathematical total of the item prices rather than the figure entered opposite the description, "TOTAL ALL ITEMS."

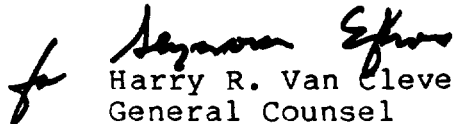
Moreover, the nature of the mistakes can be determined without benefit of advice from the bidder. As indicated above, the cause of \$605 of the discrepancy, i.e., the confusion between the price of \$363 initially entered for the construction staking and the intended price of \$968 subsequently entered, is apparent on the face of the bid. In addition, all but \$5 of the remaining discrepancy can be explained by the addition of the item prices and the two subtotals on page 4 in arriving at the total bid price. As for the remaining \$5 of the discrepancy, not only do we consider this de minimis in a total bid of nearly 3 million dollars, but, in addition, we note that the rounding off of Cole's total price is consistent with Cole's rounding off of its extended item prices.

As for Cole's failure to enter a "TOTAL BID PRICE" in Block 17 of Standard Form 1442, we note that the test for responsiveness is whether the bid as submitted is an offer to perform, without exception, the exact thing called for in the IFB, so that upon acceptance, the contractor will be

bound to perform in accordance with all the terms and conditions of the IFB. See Hild Floor Machine Company, Inc., B-217213, Apr. 22, 1985, 85-1 C.P.D. ¶ 456. Since Cole, by entering a bid price for every item, offered to perform as required under the solicitation, its failure to enter a total price in Block 17 did not render its bid non-responsive and the failure instead may be considered an informality and waived. See also R.R. Gregory Corporation, B-217251, Apr. 19, 1985, 85-1 C.P.D. ¶ 449; cf. Telex Communications, Inc.; Mil-Tech Systems, Incorporated, B-212385; B-212385.2, Jan. 30, 1984, 84-1 C.P.D. ¶ 127 (omitted item price may be corrected after bid opening).

Accordingly, Cole's bid may be corrected to reflect as its intended bid price the correct mathematical total of all items and award, if otherwise proper, may be made to Cole as the low bidder.

The protest is denied.


Harry R. Van Cleve
General Counsel